

C-4775-2  
10/12/04

AG Contract No. KR02-1959TRN  
ADOT ECS File No.: JPA 02-88

**Amendment 2**

Project Nos.: NH-060-B(008)B &  
NH-060-B(007)B

Project: US 60 (Grand Avenue)  
Section: 55<sup>th</sup> & Maryland Avenues  
Maryland Avenue Overpass) and 67<sup>th</sup> &  
Northern Avenues (67<sup>th</sup> Avenue  
Overpass)

TRACS Nos.: H5600 01C & H5601 01C  
5-Year Item #s 86403 & 86603  
City of Glendale -- C-XXXX

**AMENDMENT NO. TWO (2)  
INTERGOVERNMENTAL AGREEMENT**

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF GLENDALE

THIS AGREEMENT is entered into 04 November, 2004, Amendment Number 2 to JPA 02-088, AG Contract No.: KR02-1959TRN, filed with the Secretary of State No. 26002, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF GLENDALE, acting by and through its CITY MANAGER and CITY COUNCIL (the "City").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 9-240 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

The purpose of this Amendment is to: a) Incorporate an 8<sup>th</sup> element for the state to fund the design and construction of the south half of a sound wall for the Orange Grove Estates Mobile Home Park constructed as a City project, at an estimated cost of \$91,722.00, all at the State's expense. b) Amend the cost of Item 3, 67<sup>th</sup> Avenue signal interconnect; to match the contractor's bid cost of \$33,630.00, an increase of \$7,975.00, all at the City's expense. c) Amend the cost of Item 6, 67<sup>th</sup> Avenue utility relocations, to reflect the actual costs invoiced to the City of \$156,650.00, an increase of \$145,400.00, all at the State's expense. d) Amend the cost of Item 7, 67<sup>th</sup> Avenue Bridge Revisions, to reflect the actual cost of \$320,000.00, a decrease of \$80,000.00. e) Add the Indemnification Clause, Non-Availability of Funds and the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) to this Agreement under the Miscellaneous Provisions.

**THEREFORE**, in consideration of the mutual agreements expressed herein, this Agreement is amended as follows:

#02

NO. 26002  
Filed with the Secretary of State  
Date Filed: 11/04/04

Janice K. Brewer  
Secretary of State

By: Timothy D. Greenwald

**Paragraphs 4 & 5 are revised in full as follows:**

4. In conjunction with the State's roadway construction improvements of US 60/Grand Avenue at 67<sup>th</sup> & Northern Avenues, the State desires to fund **8) the design and construction of the south half of a sound wall for the Orange Grove Estates Mobile Home Park constructed as a City project, at an estimated cost of \$91,722.00, herein referred to as the "City's Project"**.

5. A summary of costs associated with the State and City Projects, totaling **\$569,952.00**, is detailed on Exhibit A, attached hereto and made a part hereof. **The total payments to date by the City amount to \$896,469.00, therefore, the City will be reimbursed \$326,517.00 by the State as a result of this amendment.**

**II. SCOPE OF WORK**

1. The State will:

**Paragraph a. & d., increased the cost of the project as shown on exhibit A:**

a. Upon execution of this agreement **reimburse** the City **\$326,517.00**, including a fixed rate of 14% for construction engineering and administration costs and a fixed rate of 5% for design engineering administration costs, shown on Exhibit A.

d. Upon completion of the City's Project invoice or reimburse the City any difference between the amount paid by the State **and the actual cost for design and construction of element 8 referenced in Paragraph 4 of the Recitals, which includes fixed percentages as shown on Exhibit A.**

2. The City will:

**Paragraph a. & c., increased the cost of the project as shown on exhibit A:**

a. Upon execution of this agreement **invoice** the State **\$326,517.00**, including a fixed rate of 14% for construction engineering and administration costs and a fixed rate of 5% for design engineering administration costs.

c. Upon completion and acceptance of the State's Project reimburse the State any difference between the amount paid by the City **and the actual cost for design and construction of element 8 referenced in Paragraph 3 of the Recitals, which includes fixed percentages as shown on Exhibit A.**

**III. MISCELLANEOUS PROVISIONS**

**Paragraph 8, 9 and 10 are added in full as follows:**

8. Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees), hereinafter collectively referred to as "claims", arising out of bodily injury of any person (including death) or property damage, or any other claims, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents employees, or volunteers.

9. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".


10. Non-Availability of Funds: Every payment obligation of State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

**EXCEPT AS AMENDED** herein, all other terms and conditions of the original Agreement remains in full force and effect.

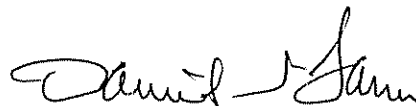
---

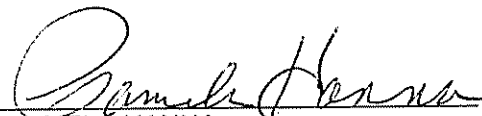
**IN WITNESS WHEREOF**, the parties have executed this agreement the day and year first above written.

**CITY OF GLENDALE**  
A Municipal Corporation

By   
ED BEASLEY  
City Manager

**STATE OF ARIZONA**  
Department of Transportation

By   
DANIEL LANCE, P.E.  
Deputy State Engineer

By   
PAMELA HANNA  
City Clerk

JPA 02-088

**ADMENDMENT No. 2**

APPROVAL OF THE CITY OF GLENDALE ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and THE CITY OF GLENDALE, and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 13th day of October, 2004.

  
\_\_\_\_\_

Attorney

EXHIBIT A  
SUMMARY

GRAND AVENUE CORRIDOR  
DESCRIPTION AND COST OF PAY ITEMS FOR THE CITY OF GLENDALE ENHANCEMENTS

| ITEM   | COST      |              | DESCRIPTION  |
|--|-----------|--------------|--|
|  | DESIGN    | CONSTRUCTION |  |
| 1 MARYLAND AVE SIGNAL INTERCONNECT (No Change)                 | \$0       | \$17,111     | \$17,111<br>Additional cost to provide 4" conduits, No. 7 pull boxes, and couplings at bridge for the interconnect system between the signals on Maryland Ave (Contractor's Bid Cost).         |
| 2 MARYLAND AVENUE UNDERPASS AESTHETIC ENHANCEMENTS (No Change) | \$28,840  | \$185,667    | \$214,507<br>Additional cost for the decorative MSE walls, pedestrian fence and parapet and decorative post for roadway lighting (Lump Sum).   |
| Items 1-2 Sub-Total:   | \$28,840  | \$202,778    | \$231,618  |
| 3 67TH AVE SIGNAL INTERCONNECT (Modified for Amendment 2)      | \$0       | \$33,630     | \$33,630<br>Additional cost to provide conduit, pullboxes and couplings at bridge for the interconnect system between the signals on 67th Avenue (Contractor's Bid Cost).                      |
| 4 67TH AVENUE UNDERPASS AESTHETIC ENHANCE (No Change)          | \$20,061  | \$142,267    | \$162,328<br>Additional cost for the decorative MSE walls, abutments, piers and bridge barrier railings (Lump Sum).  |
| 5 67TH AVENUE 48-INCH SD ENHANCEMENT (No Change)               | \$800     | \$30,262     | \$31,062<br>Additional cost to the City (based on 50/50 cost share with ADOT) to upsized the 67th Avenue SD system to a 48-inch pipe north of Grand Avenue (Lump Sum).                         |
| 6 67TH AVENUE UTILITY RELOCATIONS (Modified for Amendment 2)   | \$0       | -\$156,650   | -\$156,650<br>ADOT cost for COG performed relocation of utilities with prior rights that are in conflict with SRPI relocations (Estimated - Actuals 04/13/04).                                 |
| 7 67TH AVENUE BRIDGE REVISIONS (Added for Amendment 2)         | \$320,000 |              | \$320,000<br>Additional design cost to the City to revise the 67th Avenue Bridge to accommodate the future development of Northern Avenue Superstreet (Includes \$13K for SRPI) (Actual Cost). |
| 8 67TH AVENUE WALL CONSTRUCTION (Added for Amendment 2)        | \$14,204  | -\$105,926   | -\$91,722<br>ADOT portion of construction cost for construction of the Orange Grove Mobile Home Park privacy wall by COG (Estimated).  |
| Items 3-9 Sub-Total:   | \$355,065 | -\$56,417    | \$298,648  |
| ITEMS 1-9 TOTAL:   | \$383,905 | \$146,361    | \$530,266  |
| 14% CONSTRUCTION ENGINEERING AND ADMINISTRATION                | \$0       | \$20,491     | \$20,491<br>Construction Engineering and Administration was calculated on a percentage basis of the construction cost of the City's Items 1 through 9.   |
| 5% DESIGN ENGINEERING ADMINISTRATION                           | \$19,195  | \$0          | \$19,195<br>Design Engineering Administration was calculated on a percentage basis of the design cost of the City's Items 1 through 9.   |
| GRAND TOTAL  | \$403,100 | \$166,852    | \$569,952<br>Original Agreement Into H560001C and H560101C   |
| Previous Payment (Glendale)                                    |           |              | \$496,469<br>Amendment #1 Into H560101D  |
| Previous Payment (Glendale)                                    |           |              | \$400,000<br>Due to Glendale from ADOT   |
| GRAND TOTAL DUE  |           |              | -\$326,517   |

**EXHIBIT A**  
**ITEM 3 SUMMARY BACKUP**

Final Version  
JPA 02-088, Amendment 2  
Date: 05/27/2004

| Item No | Item Description                                     | Unit   | Quantity | Unit Price  | Amount      |
|---------|--|--------|----------|-------------|-------------|
| 1       | 67th AVENUE - TRAFFIC SIGNAL INTERCONNECT            |        |          |             |             |
| 2       | CONTRACTOR'S BID COST                                |        |          |             |             |
| 3       |  |        |          |             |             |
| 4       | 7320296 ELECTRICAL CONDUIT (4") (COG)                | L.F.T. | 1,710    | \$7.00      | \$11,970.00 |
| 5       | 7320451 PULL BOX (NO. 7) (WITH EXTENSION) (COG)      | EACH   | 8        | \$550.00    | \$4,400.00  |
| 6       | 7370414A ELECTRICAL SYSTEM (INTERCONNECT CONDUIT)    | L.SUM  | 1        | \$13,000.00 | \$13,000.00 |
| 7       |  |        |          |             |             |
| 8       | SUBTOTAL CONSTRUCTION COST (1)                       |        |          |             | \$29,370.00 |
| 9       |  |        |          |             |             |
| 10      | MAINTENANCE OF TRAFFIC SHARE <sup>1</sup>            | L.SUM  | 1        | 2.60%       | \$764.00    |
| 11      | CONSTRUCTION SURVEYING AND LAYOUT SHARE <sup>2</sup> | L.SUM  | 1        | 2.10%       | \$617.00    |
| 12      | CONTRACTOR QUALITY CONTROL SHARE <sup>3</sup>        | L.SUM  | 1        | 1.50%       | \$441.00    |
| 13      | MOBILIZATION SHARE <sup>4</sup>                      | L.SUM  | 1        | 8.30%       | \$2,438.00  |
| 14      |  |        |          |             |             |
| 15      | SUBTOTAL CONSTRUCTION COST (2)                       |        |          |             | \$33,630.00 |
| 16      | DESIGN ENGINEERING                                   |        |          |             | \$0.00      |
| 17      | ITEM 3 TOTAL COST                                    |        |          |             | \$33,630.00 |
| 18      |  |        |          |             |             |

**Notes:**

1. Maintenance of Traffic was calculated on a percentage basis (2.6% based upon the Contractor's actual bid on the 27th Ave/91st Ave & 43rd Ave/51st Ave Grand Projects) of the construction cost of the City's items.
2. Construction Surveying and Layout was calculated on a percentage basis (2.1% based upon the Contractor's actual bid on the 27th Ave/91st Ave & 43rd Ave/51st Ave Grand Projects) of the construction cost of the City's items.
3. Contractor Quality Control was calculated on a percentage basis (1.5% based upon the Contractor's actual bid on the 27th Ave/91st Ave & 43rd Ave/51st Ave Grand Projects) of the construction cost of the City's items.
4. Mobilization was calculated on a percentage basis (8.3% based upon the Contractor's actual bid on the 27th Ave/91st Ave & 43rd Ave/51st Ave Grand Projects) of the construction cost of the City's items.

**EXHIBIT A**  
**ITEM 6 SUMMARY BACKUP**

| Item No | Item Description  | Unit   | Quantity | Unit Price     | Amount         |
|---------|---|--------|----------|----------------|----------------|
| 1       | 67th AVENUE - UTILITY RELOCATION BY COG <sup>1</sup>                    |        |          |                |                |
| 2       | ACTUAL COST   |        |          |                |                |
| 3       |   |        |          |                |                |
| 4       | Per Invoice Dated February 13, 2004 from CCE Mohave and letter from Bob | L. Sum | 1        | (\$156,650.00) | (\$156,650.00) |
| 5       | Coons dated May 17, 2004 itemizing funding participation.               |        |          |                |                |
| 6       |   |        |          |                |                |
| 7       |   |        |          |                |                |
| 8       |   |        |          |                |                |
| 9       |   |        |          |                |                |
| 10      |   |        |          |                |                |
| 11      |   |        |          |                |                |
| 12      |   |        |          |                |                |
| 13      |   |        |          |                |                |
| 14      |   |        |          |                |                |
| 15      | SUBTOTAL CONSTRUCTION COST (1)  |        |          |                | (\$156,650.00) |
| 16      |   |        |          |                |                |
| 17      |   |        |          |                |                |
| 18      | ITEM 6 TOTAL COST   |        |          |                | (\$156,650.00) |
| 19      |   |        |          |                |                |

Notes:

1. Advance Utility Relocations for SRP1 with partial funding by ADOT and new sewer line installation for parcels north of Connector C2 at 2/3s ADOT, 1/3 Glendale.

**EXHIBIT A**  
**ITEM 8 SUMMARY BACKUP**

Final Version  
JPA 02-088, Amendment 2  
Date: 5/27/2004

| Item No | Item Description  | Unit  | Quantity | Unit Price   | Amount         |
|---------|---|-------|----------|--------------|----------------|
| 1       | 67th AVENUE - WALL CONSTRUCTION BY COG <sup>1</sup>           |       |          |              |                |
| 2       | ESTIMATED COST  |       |          |              |                |
| 3       |   |       |          |              |                |
| 4       | M2010010 CLEARING AND GRUBBING                                | L.SUM | 1        | (\$1,250.00) | (\$1,250.00)   |
| 5       | M3500100 REMOVAL OF EXISTING IMPROVEMENTS WITHIN RIGHT OF WAY | L.SUM | 1        | (\$1,000.00) | (\$1,000.00)   |
| 6       | M3500119 REMOVE EXISTING BLOCK WALL (UNDER 6' HEIGHT)         | LF    | 664      | (\$10.00)    | (\$6,640.00)   |
| 7       | M5100020 MASONRY WALL, HEIGHT PER PLANS                       | SF    | 6,817    | (\$12.00)    | (\$81,804.00)  |
| 8       | M1100100 MOBILIZATION/DEMobilIZATION                          | LS    | 1.0      | (\$5,000.00) | (\$5,000.00)   |
| 9       | M4200008 TEMPORARY CHAIN LINK FENCE                           | LF    | 683.0    | (\$4.00)     | (\$2,732.00)   |
| 10      | M4010001 TRAFFIC CONTROL                                      | LS    | 1.0      | (\$5,000.00) | (\$5,000.00)   |
| 11      | M1058000 CONSTRUCTION SURVEYING AND LAYOUT                    | LS    | 1.0      | (\$2,500.00) | (\$2,500.00)   |
| 12      |   |       |          |              |                |
| 13      | SUBTOTAL CONSTRUCTION COST (1) <sup>2</sup>                   |       |          |              | (\$105,926.00) |
| 14      |   |       |          |              |                |
| 15      | DESIGN ENGINEERING <sup>3</sup>                               |       |          |              | \$14,204.00    |
| 16      | ITEM 8 TOTAL COST   |       |          |              | (\$91,722.00)  |
| 17      |   |       |          |              |                |

**Notes:**

1. Wall construction by COG at Orange Grove Mobile Home Park
2. Construction cost for portion of wall to be funded by ADOT. Wall offset at entrance for sight-distance requirements
3. Design cost for portion of wall to be funded by COG

**EXHIBIT A**  
**ITEM 7 SUMMARY BACKUP**

Final Version  
JPA 02-088, Amendment 2  
Date: 5/27/2004

| Item No | Item Description   | Unit  | Quantity | Unit Price | Amount       |
|---------|--|-------|----------|------------|--------------|
| 1       | 67th AVENUE - REVISIONS TO BRIDGE FOR NORTHERN SUPERSTREET |       |          |            |              |
| 2       | ACTUAL COST  |       |          |            |              |
| 3       |  |       |          |            |              |
| 4       | 67TH AVENUE UP BRIDGE NO. 2699                             | L.SUM | 1        |            | \$0.00       |
| 5       | 67TH AVENUE UP BRIDGE NO. 2699 (ADOT) <sup>5</sup>         | L.SUM | 1        |            | \$0.00       |
| 6       |  |       |          |            |              |
| 7       |  |       |          |            |              |
| 8       |  |       |          |            |              |
| 9       | SUBTOTAL BRIDGE CONSTRUCTION COST (1)                      |       |          |            | \$0.00       |
| 10      |  |       |          |            |              |
| 11      | MAINTENANCE OF TRAFFIC SHARE <sup>1</sup>                  | L.SUM | 1        | 2.60%      | \$0.00       |
| 12      | CONSTRUCTION SURVEYING AND LAYOUT SHARE <sup>2</sup>       | L.SUM | 1        | 2.10%      | \$0.00       |
| 13      | CONTRACTOR QUALITY CONTROL SHARE <sup>3</sup>              | L.SUM | 1        | 1.50%      | \$0.00       |
| 14      | MOBILIZATION SHARE <sup>4</sup>                            | L.SUM | 1        | 8.30%      | \$0.00       |
| 15      |  |       |          |            |              |
| 16      | SUBTOTAL CONSTRUCTION COST (2)                             |       |          |            | \$0.00       |
| 17      | Design Engineering (Aztec and SRPI)                        |       |          |            | \$320,000.00 |
| 18      | ITEM 7 TOTAL COST  |       |          |            | \$320,000.00 |

**Notes:**

1. Maintenance of Traffic was calculated on a percentage basis (2.6% based upon the Contractor's actual bid on the 27th Ave/91st Ave & 43rd Ave/51st Ave Grand Projects) of the construction cost of the City's items.
2. Construction Surveying and Layout was calculated on a percentage basis (2.1% based upon the Contractor's actual bid on the 27th Ave/91st Ave & 43rd Ave/51st Ave Grand Projects) of the construction cost of the City's items.
3. Contractor Quality Control was calculated on a percentage basis (1.5% based upon the Contractor's actual bid on the 27th Ave/91st Ave & 43rd Ave/51st Ave Grand Projects) of the construction cost of the City's items.
4. Mobilization was calculated on a percentage basis (8.3% based upon the Contractor's actual bid on the 27th Ave/91st Ave & 43rd Ave/51st Ave Grand Projects) of the construction cost of the City's items.
5. Estimated cost of 67th Avenue Bridge prior to revisions by COG for Northern Avenue Superstreet.

RESOLUTION NO. 3800 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AMENDMENT NUMBER TWO TO THE INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE 67<sup>TH</sup> AVENUE OVERPASS PROJECT AT NORTHERN AND GRAND AVENUES.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

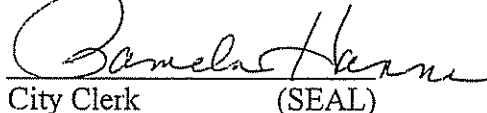
SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that Amendment Number Two to the Intergovernmental Agreement between the City of Glendale and the Arizona Department of Transportation be entered into, which amendment is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the Mayor or City Manager and the City Clerk be authorized and directed to execute and deliver said amendment on behalf of the City of Glendale.

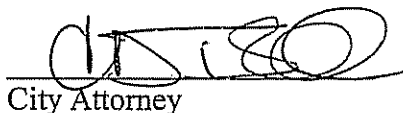
PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 12<sup>th</sup> day of October, 2004.

  
MAYOR

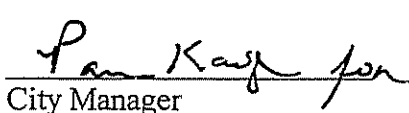
ATTEST:

  
City Clerk (SEAL)

APPROVED AS TO FORM:

  
City Attorney

REVIEWED BY:

  
City Manager



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

TERRY GODDARD  
ATTORNEY GENERAL

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602.542.8855

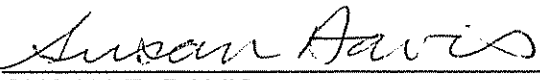
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR02-1959TRN (**JPA 02-088, AMENDMENT 2**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: October 28, 2004

TERRY GODDARD  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section